

CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



Date: February 4, 2015

To: Members of the Joint City-County Planning Committee
Through: Steven L. Medlin, AICP, Planning Director *[Signature]*
From: Michael Stock, AICP, Senior Planner
Subject: *Unified Development Ordinance* Text Amendment, Independent Living Facility (TC1400005)

Summary. *Unified Development Ordinance* (UDO) text amendment TC1400005 is a privately-initiated application to develop standards for a type of residential use called an "independent living facility." This is a revision to the original application (Attachment A) as presented to the Joint City-County Planning Committee (JCCPC) on November 5, 2014, as an informational item for a request to add a use called a "life care facility/retirement center." Upon further review of the various types of facilities and definitions for senior group living (congregate care, assisted living, retirement center, life care, elder housing, independent living), staff determined that the proposed term "independent living facility" and the associated definition discussed below best matched the intent of the applicant.

The draft text amendment ordinance provides the following for an "independent living facility":

1. Establishes the use within Article 5, Use Regulations;
2. Clarifies references to other similar uses within Article 5, Use Regulations;
3. Establishes parking requirements in Article 10, Parking and Loading; and
4. Provides a definition for the use in Article 16, Definitions.

Recommendation. The staff recommends that the Joint City-County Planning Committee (JCCPC) receive this report and provide comment and policy direction. No additional action is required.

Background. The text amendment application is a privately-initiated amendment submitted by the Morningstar Law Group on behalf of Meridian 2012 LLC d.b.a. Bartlett Reserve. The application was first presented to the JCCPC as an informational item on November 4, 2014. At that time, the application indicated a request for a use called a "life care facility/retirement center" and cited the definition in the repealed Durham Merged Zoning Ordinance (MZO) to possibly add to the UDO. Staff was also awaiting a parking assessment from the applicant that would suggest or justify a proposed parking rate for the use. An initial parking assessment was submitted to staff on December 11, 2014, and a revised version was submitted on December 29, 2014 (Attachment B).

Issues. The requested amendment would establish a type of residential use for senior populations that current uses within the UDO do not accommodate. The repealed MZO contained the following use, and forms the basis of the applicant's request:

"Retirement Center, Life Care Facility, or Elderly Congregate Living Facility: A development for 6 or more persons. The facility provides housing and some degree of food service and may also provide individual assistance with some medical needs or housekeeping. The facility may also provide recreational facilities and some personal service shops such as a bank or barber shop."

This use was not incorporated into the UDO when it became effective in 2006. Current residential uses within the UDO that cater to senior or special needs populations, and their corresponding UDO definitions, are as follows:

Use category: Household Living

Congregate care facility with individual units that meet the definition of a dwelling unit, or retirement center apartment: Undefined.

Use category: Group Living

Congregate living facility: A residential use which undertakes, for a period exceeding 24 hours, care, housing, food service and one or more personal services for persons not related to the owner or administrator.

Hospice, nursing, or convalescent house: A facility that provides nursing services and custodial care on a 24 hour basis for three or more unrelated individuals who for reasons of illness, physical infirmity, or advanced age require such services.

Retirement center or life care community without individual dwelling units: Undefined.

The UDO definition of a "congregate living facility" includes "care" as one of the services provided; and although it incorporates many of the elements that are requested with the proposed use, it also allows for more of a continuum of care pursuant to the limited use standards in paragraph 5.3.2B, Congregate Living Facility. Thus, this has been determined to be different than the proposed use. The proposed use is primarily a facility that allows for independent living targeted to a senior population, including individual dwelling units (with cooking facilities) along with personal-service-oriented amenities (e.g., hair salon/barber, banking, etc.) and common dining areas. Medical care is not offered, although the facility may aid a resident in obtaining it when necessary.

Staff researched various types of senior living facilities, and associated definitions of those types of facilities. It was concluded that:

1. The proposed term "life care facility/retirement center" was consistently defined as a facility that provided a continuum of senior care, from independent living, to assisted living, to skilled nursing care. This allowed residents to age in place while their needs change over time. This is somewhat different than the above-referenced MZO definition and more similar to the existing "congregate living facility" use already established in the UDO. Thus, staff concluded the proposed term was not appropriate based on the intent of the application.
2. The term "independent living facility" consistently referenced a type of facility that most closely matched the intent of the use proposed by the applicant. Therefore, after consultation with the applicant, the following definition is proposed:

Independent Living Facility: A facility consisting of a single building or group of buildings with one ownership and management in which the residents are persons at least 55 years of age, their spouses, and/or their surviving spouses, and with or without an on-site resident manager. Residents live in their own dwelling units. The facility maintains a common dining room and typically provides personal services such as transportation, banking, and/or a barber shop/hair salon; recreational activities and amenities; concierge services; and housekeeping for residents and their guests. Health maintenance services and/or treatment are not provided.

The proposed use is residential in nature, similar to an apartment complex, but provides more services and assistance to a targeted population. Staff thus determined that this use is appropriate for both residential and non-residential types of zoning districts; but it warrants additional review through a minor special use permit process for locations in residential districts to ensure compatibility within residential areas. This is also consistent with the zoning districts that allow a congregate living facility with or without a minor special use permit.

The proposed parking rate is undetermined at this time. The parking assessment submitted by the applicant suggests a rate of 0.4 spaces per dwelling unit, but provides analysis for uses that are more consistent for nursing homes or assisted living facilities. The one facility that is similar to the proposed use generated an estimated need of 0.7 spaces per dwelling unit. Staff is awaiting additional data from other existing facilities similar to the proposed use to determine a more conclusive parking rate.

Consistency with the *Comprehensive Plan*; Reasonableness and in the Public Interest. After review of the request and consideration of current UDO regulations, staff has determined that this request is reasonable. The proposed use would add a type of housing currently lacking as an option within the UDO, and is a significant

housing option that will be in demand due to a growing senior population. The *Comprehensive Plan* does not specifically address senior housing or aging in place within Chapter 3, Housing Element, but the request does not appear to conflict with the tenants of the Housing Element, such as accommodating special needs populations, affordability (with the availability of new and additional housing options), and developing sustainable and proactive communities.

Contact. Michael Stock, AICP, Senior Planner, 919-560-4137 ext. 28227;
Michael.Stock@DurhamNC.gov.

Attachments:

Attachment A: Application by Morningstar Law Group.

Attachment B: Parking Assessment submitted by Morningstar Law Group

Attachment C: An Ordinance to Amend the Unified Development Ordinance
Regarding Independent Living Facilities (TC1400005) - Draft



DURHAM CITY-COUNTY PLANNING DEPARTMENT

Unified Development Ordinance (UDO)

Text Amendment Application

**Applicant Information**

Name: Meridian 2012 LLC d.b.a. Barlett Reserve	Telephone: 919-590-0384
Company/Organization: c/o Morningstar Law Group	Email: pbyker@morningstarlawgroup.com
Address: 630 Davis Drive, Suite 200	City/State/Zip: Morrisville, NC 27560

Proposed Amendment(s)

In the space below, provide details of the proposed amendment(s); attach additional sheets as needed. Please use the following format for each portion of the existing Ordinance proposed to change:

1. Current UDO Reference: (List Articles, Sections, and paragraphs affected);
2. Current and proposed text (with strike-out of deleted text and underline of proposed text), diagram, and/or illustration; OR detailed description of desired change; and
3. Justification for the amendment(s); include how this proposal may affect other portions of the UDO, as applicable.

Article 5, Use Regulations. Sec. 5.1.2--Use Table, Group Living: Insert "Retirement Center/Life Care Facility" as a permitted use in RS-M, RU-M, RC, OI, PDR, MU, DD and CD.

Article 10, Parking and Loading. Sec. 10.3.1.4--Parking Rate Table, Residential Uses, Group Living: Insert "Retirement Center/Life Care Facility--Motor Vehicle Spaces: 0.6 spaces per unit. Minimum Bicycle Parking: 1 per 20 employees; minimum 2 spaces."

Article 16, Definitions. Sec. 16.3--Defined Terms: Insert "Retirement Center/Life Care Facility: A development for 6 or more persons, provided that at least one resident per unit is age 55 or over. The facility provides housing and some degree of food service and may also provide individual assistance with some medical needs or housekeeping. The facility may also provide recreational facilities and some personal service shops such as a bank or barber shop/hair salon. Unit count shall be based on the provisions of the NC Building Code applicable to overnight accommodations."

Justification: See next page and attached Exhibits A & B.

Signature of Applicant (Required)

Patrick Byker 9/9/2014
Signature of Applicant Date

Tracking Information (Staff Only)

Assigned Case #: TC1400005	Date Received: 9/9/14
Received By: AD	Fees Paid: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No CK #1743

**JUSTIFICATION FOR TEXT AMENDMENT TO ADD
"RETIREMENT CENTER/LIFE CARE FACILITY"**

The UDO lacks a use category which serves the active, older adult community between the care-intensive Congregate Living Facility and the generic Multiplex/apartment with no services at all. The superseded Zoning Ordinance did provide for a "Retirement Center/Life Care Facility," which is a style of development that accommodates independent seniors. Unfortunately, and perhaps inadvertently, the UDO failed to carry over the "Retirement Center/Life Care Facility" as a defined use category when the UDO was adopted in 2006. With the exception of how to establish the number of units within the Retirement Center/Life Care Facility and including a specific age requirement, the definition provided in this proposed text amendment comes from the superseded Zoning Ordinance, and the definition neatly addresses this gap in the UDO.

Our research has disclosed that at least five of our peer cities across North Carolina (Raleigh, Wilmington, Winston-Salem, Charlotte and Cary) have a similar use category in their respective unified development ordinances (Exhibit A). While these current definitions from our peers are helpful, we believe that incorporating what Durham had in the superseded Zoning Ordinance into our UDO represents the best option for this text amendment. Furthermore, we researched the parking standards from our peer cities as well, and those parking ratios all reflect the reality that the proposed Retirement Center/Life Care Facility use requires less than one vehicle parking space per unit. In order to address staffing needs without reference to employment numbers, we propose that the required vehicular parking ratio be 0.6 spaces per unit, which appears to be a reasonable average of the parking standards shown in Exhibit A, so that the parking standard accommodates both residents and staff at the Retirement Center/Life Care Facility.

This text amendment will stimulate affordable, good-quality, market-based housing opportunities for independent seniors. Specifically, this "Retirement Center/Life Care Facility" component of the UDO can attract new investment to Durham through the adaptive re-use of under-performing or under-utilized office or hotel buildings. Located on NC 55 just south of NC 54, Bartlett Reserve is a fine example of such new investment and the adaptive re-use of an existing, but under-performing, extended-stay hotel. The 55+ age demographic represents the core population that is served by Bartlett Reserve.

The Durham UDO should facilitate the development of good-quality, affordable housing for independent seniors. For the five categories from age 55 to 85 years and over shown on the attached Durham County Census table (Exhibit B), four out of these five categories reflect the highest percentage increase among all age categories in the 2000 and 2010 census data for

Durham County, with such increases being 70%, 88%, 29% and 40% respectively. The UDO should reflect this reality. This text amendment will encourage private investment to meet this strong demand for independent senior housing that is derived from Durham's superb healthcare, community amenities and recreational opportunities.

We are not aware of this proposal affecting any other portions of the UDO.

Attachments

4845-8383-1581, v. 1

Raleigh Unified Development Ordinance

Life Care Community - Facility providing a continuum of residential and health care services to persons aged 62 years or older. Allows residents to continue living in the same complex as their housing and health care needs change. Life care communities may offer a variety of services such as congregate care, skilled nursing, health and wellness, recreational facilities, support services and entertainment and social uses, as well as offering a range of residential opportunities (apartments, townhouses, cottages).

Parking

Life Care Community Parking:

Vehicle Parking - 1 space per 3 units +1 per 400 SF administrative, employee, staff work area – additional spaces required for non-residential and residential uses at the ratio required by parking table.

Short-term Bicycle Parking- Required for nonresidential and residential uses at the ratio required by parking table.

Long-term Bicycle Parking - Required for nonresidential and residential uses at the ratio required by parking table.

Wilmington Unified Development Ordinance

Assisted Living Residence – Establishments licensed pursuant to G.S. Ch. 131D primarily engaged in the provision of residential, social and personal care for the elderly who have some limits on their ability for self-care, but where medical care is not a major element of the services provided at the facility. Settings in which services are delivered may include self-contained apartment units or single or shared units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. Ch. 131E.

Retirement Center and Life Care Center – A development that allows residents to age in place with flexible accommodations designed to meet health and housing needs as they change over time. These communities may include personal services, nursing care, and recreation amenities all collocated to enable seniors to remain within the community as they age.

Parking

Assisted Living Residence Parking:

1 space per 4 beds and 1 space per supervisor and staff person

Retirement Center:

No parking standard stated in Wilmington UDO.



Winston Salem Unified Development Ordinance

Life Care Community- An area of land under unified ownership planned and developed as a unit to provide for the transitional residence and care of persons aged fifty-five (55) years or older and/or handicapped. Life care communities may offer a full range of living and care arrangements, including independent living in attached or detached dwelling units, assisted living in congregate care facilities, and full time health care in nursing care institutions.

Parking

Life Care Community Parking:

Spaces required based on sum of principal uses, except 1 space per single family, duplex, twin home, or townhouse dwelling unit.

Charlotte Unified Development Ordinance

Active Adult Retirement Community- A housing development that contains a variety of housing types, that is designed for and restricted to occupancy by households having at least one member who is 55 years of age or older. Active adult retirement housing includes at least 5 of the following related facilities or services for residents: security entrance/registered access; exterior home maintenance; lawn maintenance; clubhouse with wellness and/or fitness facility, computer resources, central meeting areas, recreation/social director; condominium association comprised of homeowners who govern services for the community; walkways with 5% or less grade on average; and home designs using AARP Universal Design guidelines or equivalent.

Parking

Dwellings, multi-family, elderly or disabled Parking:

.25 auto spaces per unit

Cary Land Development Ordinance

Life Care Community- A building or group of buildings that contains dwelling units where the occupancy is restricted to persons who are least sixty-two (62) years of age, or married couples in which one person of the persons is at least sixty-two (62) years of age, and which provides nursing and/or medical care as well as support services, such common dining facilities, retail stores, and personal service establishments, which are operated by the owner of the life care community or lessees of the owner. Life care communities are designed to meet the residents' basic needs for shelter, food and health care, regardless of the level of independent of the individual resident and regardless of how these needs many change over time.

Parking

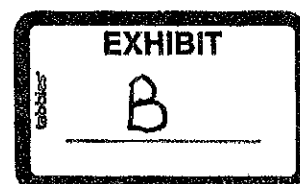
Life Care Community Parking:

Motor vehicle- 0.25 per resident +1 per each staff person

Bicycle Spaces- 1 rack per building

Durham County	2000	2010	% change
Total population	223,314	267,587	20%
Under 5 years	15,492	19,815	28%
5 to 9 years	14,672	16,563	13%
10 to 14 years	13,683	14,942	9%
15 to 19 years	14,926	17,952	20%
20 to 24 years	21,076	23,232	10%
25 to 34 years	42,336	48,956	16%
35 to 44 years	35,355	37,762	7%
45 to 54 years	28,376	34,132	20%
55 to 59 years	9,099	15,454	70%
60 to 64 years	6,725	12,662	88%
65 to 74 years	10,916	14,057	29%
75 to 84 years	7,881	8,166	4%
85 years and over	2,777	3,894	40%

Source: U.S. Census



Kimley»Horn

December 19, 2014

Mr. Steve Medlin
Durham City/County Planning
101 City Hall Plaza
Durham, NC 27701

RE: *Parking Assessment for Independent / Assisted Living Facilities*

Dear Mr. Medlin,

It is our understanding that Durham Unified Development Ordinance (UDO) does not currently provide a specific parking ratio for assisted living facilities and instead requires a ratio that is based on multi-family dwelling units. In conjunction with the proposed UDO text amendment, Kimley Horn and Associates has completed a parking assessment for assisted living facilities. Our investigation considers three sources of information.

- Parking ratios from other local municipalities
- Parking demand data provided by the Institute of Transportation Engineers (ITE)
- Parking demand observations for a similar facility in Durham

The table below summarizes the minimum parking requirement for similar facilities in other local municipalities.

Municipality	Land Use	Minimum Parking Requirement
Raleigh	Congregate Care, Nursing Home	1 space per 3 units + 1 per 400 SF of Admin, employee and staff work area
	Life Care Community	1 space per 3 units + 1 per 400 SF of Admin, employee and staff work area
Greensboro	Assisted Living Facilities	1 per 2 dwelling units or rooming units
	Nursing Home	1 per 3 beds
Winston - Salem	Group Care Facility	1 space per 4 residents
	Nursing Care	1 space per 3 beds
Fayetteville	Assisted Living	1 space per 3 beds
	Nursing Home	1 space per 3 beds
Wilmington	Assisted Living	1 per 4 beds + 1 per supervisor and staff person
	Nursing Home	1 per 4 beds + 1 per supervisor and staff person

Given the base parking ratios, and considering supplemental employee accommodations, the data suggests an average effective parking ratio of approximately 0.33 to 0.40 spaces per bed/unit.

The Institute for Transportation Engineers (ITE) *Parking Generation Manual*, 4th Edition, is a compilation of parking demand data for numerous land uses across the United States. Land use code 254, Assisted Living Facility, includes data from 33 sites with an average size of 84 dwelling units. The average peak period parking demand is 0.41 vehicles per unit. The 85th percentile is 0.54 vehicles per dwelling unit. The 95th percentile confidence interval is 0.37 to 0.46 vehicles per unit. ITE offers no specific data for Life Care Facilities, nor does it distinguish between Independent Care Facilities and Assisted Living Facilities

Bartlett Reserve is a similar type facility except that it is more "independent living" in nature, and 20 of the 99 available units are two bedroom suites, allowing double occupancy. The facility currently has 58 occupied units with 69 total guests in residence. There are 123 available parking spaces on site. Records indicate that 25 of the 69 current guests have vehicles on site. Parking demand was observed at five times during the day of November 19, 2014. These results are reflected below.

Project Name: Bartlett Reserve Parking Study
Date: Wednesday, November 19, 2014
Total Spaces Provided: 123
Current Occupied Units: 58
Parking Demand Ratio: Occupied Spaces / Occupied Units

Count Time:	Occupied Spaces	Parking Demand Ratio
7:00 AM	33	0.57
10:00 AM	38	0.66
1:00 PM	43	0.74
5:30 PM	42	0.72
7:45 PM	37	0.64
Average Rate:		0.67
85th Percentile Rate:		0.731

Based on this information, Bartlett Reserve has more than sufficient parking to accommodate the maximum parking demand for all 99 available units.

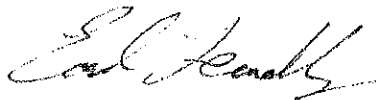
Summary & Recommendations

The average effective parking ratios of other municipalities (0.33 to 0.40 spaces per unit) and the 95th confidence interval of the ITE Parking Generation data (0.37 to 0.46 spaces per unit) are quite similar. The parking demand rate for the Bartlett Reserve facility (85th percentile rate of 0.731 spaces per unit) is noticeably higher due to the fact that it is more of a senior independent living facility and offers suites.

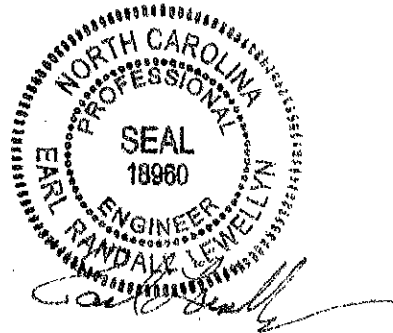
It is important to understand that minimum parking ratios should not be established in a manner that would always accommodate the worst case demand of all potential land use variations. Doing so would result in an overabundance of parking and unintended adverse impacts. The most common parking requirement from other municipalities is 0.33 spaces per unit. Based on the information presented herein, a minimum parking ratio of 0.4 spaces per unit (1 space per 2.5 units) is recommended for Retirement Center / Life Care Facilities which conservatively addresses the potential variations within this land use category. Please contact me at (919) 653-5874 or earl.lewellyn@kimley-horn.com if you have additional questions.

Sincerely,

Kimely Horn and Associates, Inc.
NC License #F-0102



Earl Lewellyn, P.E.
Associate



**AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE REGARDING
INDEPENDENT LIVING FACILITIES
(TC1400005)**

PART 1

[Establish the "independent living facility" use in Article 5, Use Regulations; establish parking requirements in Article 10, Parking and Loading; establish a definition in Article 16, Definitions]

Sec. 5.1 Use Table

[Portions of this Section not shown remain unchanged]

5.1.2 Use Table

		RESIDENTIAL					NONRESIDENTIAL					PLANNED					DESIGN					
USE CATEGORY	SPECIFIC USE	RR	RS	RS-M	RU	RU-M	RC	CI	CN	OI	CG	SRP	IL	I	PDR	UC	CC	IP	MU	DD	CD	NOTES:
Group Living	All group living, except as listed below			m	m	m	m	m	m		m				±m				±m	m		
	Commercial dorm			L/m		L/m	L/m	L/m	L/m		L/m					±L				L	L/m	5.3.2A
	Congregate living facility			L/m	L/m	L/m	L/m	L	L	L	L				±L/m				±L/m	L	L	5.3.2B
	Group home		L/m	L/m	L/m	L/m	L/m	L	L	L	L				±L/m				±L/m	L	L	5.3.2C
	<u>Independent Living Facility</u>			m	m	m	m	P	P	P	P				±m				±	P	P	

Sec. 5.2 Use Categories

[Portions of this Section not shown remain unchanged]

5.2.3 Residential Use Categories

A. Household Living

Characteristics: Residential occupancy of a dwelling unit by a household on a month-to-month or longer basis.		
Principal Uses	Accessory Uses	Uses Not included
Manufactured Home, Class A or B, manufactured home park or subdivision Multiplex, apartment, congregate care facility with individual units that meet the definition of a dwelling unit, or retirement center apartment Single-family detached, zero lot line, traditional house, patio house, semi-attached house, duplex, townhouse Upper-story residential Family care home	Accessory dwelling unit, (i.e. granny flats and mother-in-law apartments) Accessory structure Ancillary indoor storage Children's play area or equipment Greenhouse or nursery not engaged in retail trade Home occupation In-house care for six or fewer persons Private community center Private garage, barbecue pit, carport, tool or garden shed, storage unit, swimming pool Docks, noncommercial, Apiculture Limited Agriculture (City Only)	Bed and breakfast establishment, hotel, motel, Inn, extended-stay facility (see Overnight Accommodations) Group Home (see Group Living) Nursing or convalescent house (see Group Living) <u>Independent Living Facility (see Group Living)</u> <u>Congregate Living Facility (see Group Living)</u> Residential assisted living facility not having individual dwelling units (see Group Living)

B. Group Living

Characteristics: Residential occupancy of a structure by a group of people that does not meet the definition of Household Living. Tenancy is usually arranged on a monthly or longer basis. Generally, Group Living structures have a common eating area for residents, and the residents may receive care, training, or treatment.		
Principal Uses	Accessory Uses	Uses Not included
Boarding house or orphanage Commercial dorm, fraternity or sorority <u>Congregate Living Facility</u> Group home Hospice, nursing, or convalescent house <u>Independent Living Facility</u> Monastery, convent Retirement center or life care community without individual dwelling units Rooming house	Ancillary indoor storage Associated offices Food preparation and dining facility Recreational facility <u>Staff residence</u>	Alternative or post-incarceration facility (see Social Service Institutions) <u>Age-restricted dwelling units but that do not offer services associated with independent living facilities or congregate care facilities (see Household Living)</u> Bed and breakfast establishment, hotel, motel, Inn, extended-stay facility (see Overnight Accommodations) Congregate care facility where individual units meet the definition of a dwelling unit (see Household Living) Family care home (see Household Living) Membership club or lodge (see Indoor Recreation) Residential occupancy of a dwelling unit by a household on a month-to-month or longer basis (see Household Living)

Sec. 16.3, Defined Terms

[Portions of this Section not shown remain unchanged]

Independent Living Facility: A facility consisting of a single building or group of buildings with one ownership and management in which the residents are persons at least 55 years of age, their spouses, and/or their surviving spouses, and with or without an on-site resident manager. Residents live in their own dwelling units. The facility maintains a common dining room and typically provides personal services such as transportation, banking, and/or a barber shop/hair salon; recreational activities and amenities; concierge services; and housekeeping for residents and their guests. Health maintenance services and/or treatment are not provided.

PART 2

That the *Unified Development Ordinance* shall be renumbered as necessary to accommodate these changes and clarifications.

PART 3

That this amendment of the *Unified Development Ordinance* shall become effective [insert date].